

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Bruce D. Campbell,

Complainant,

vs.

Pacific Bell Telephone Company (U1001C),

Defendant.

(ECP)

Case 01-11-026

(Filed November 19, 2001)

OPINION ON BILLING COMPLAINT

I. Summary

Bruce D. Campbell (Complainant) was unable to stop Pacific Bell Telephone Company (Pacific Bell) from debiting his bank account for IDSL Internet Service¹ (commonly known as DSL Service) charges after he requested the service to be discontinued. Pacific Bell stopped the debits after this complaint was filed and there is no accounting issue remaining. The Complainant claimed that he received a notice threatening disconnection of his telephone when there was no amount past due for basic service, except that there was a disputed amount past due for DSL service. This decision finds that Pacific Bell's disconnection notice was not approved by the Commission, is deficient and

¹ Integrated Digital Subscriber Line.

must be revised to reflect the Commission's prohibition of disconnecting basic service for non-payment of non-basic services, and further, to identify that DSL service is a non-basic service. Pending Commission approval of Pacific Bell's compliance Advice Letter filing, this complaint is dismissed.

II. The Complaint

Complainant signed up for DSL service, but the service did not work as expected. The Complainant therefore requested that the service be disconnected. Complainant alleges that over a period of five months, Pacific Bell continued to bill Complainant incorrectly and sent him two disconnection notices despite several calls to Pacific Bell's Customer Service Department.

Complainant alleges that he had to close his bank account because he signed up for Pacific Bell's Automatic Payments Service (APS) and he could not get Pacific Bell to stop making deductions from his checking account for these incorrect billings. According to Complainant, Pacific Bell encourages customers to sign up for APS thereby causing them to lose control of their bank account with respect to Pacific Bell's billings. Further, Complainant contends that Pacific Bell takes away customers' options by providing a telephone number with voice prompts that only allows customers to give their credit card number for charging outstanding bills to avoid disconnection of telephone service. Complainant believes the message should inform customers that they can talk to a person if they call back during business hours.

Complainant argues that Pacific Bell should discontinue use of a combined bill for basic service and non-basic services. According to Complainant, Pacific Bell uses the threat of disconnection of basic service to coerce payment of DSL service billings. Complainant points to the disconnection notice sent to him in September and asks why would Pacific Bell send out a disconnection notice

when there was no unpaid basic service bill? Complainant characterizes Pacific Bell's disconnection notice as a "cross-subsidy" provided by Pacific Bell to its non-regulated DSL service.

III. The Answer

Pacific Bell states that during the time period involved in this complaint, it sent Complainant two computer-generated disconnection notices (one on September 26, 2001 and another on November 20, 2001); the September notice showed an unpaid balance of \$60.73, none of which represented charges for basic services; and, the November 2001 notice showed an unpaid balance of \$112.47, over half (\$64.14) of which represented basic service charges. Pacific Bell agrees that the September notice was sent in error and should not have been sent to Complainant.

Further, Pacific Bell states that APS is an electronic service that automatically debits the customer's checking account for the current amount due on Pacific Bell's bill. According to Pacific Bell, customers may cancel APS by calling Pacific Bell's Business Office at least three days prior to the current debit date, or APS will not be cancelled until after the current debit date. Pacific Bell's records show that Complainant requested cancellation of APS on September 10, 2001, and that Pacific Bell processed the cancellation on September 11, 2001.

Pacific Bell denies that the telephone number shown on its bills only allows the subscriber to give his/her credit card number from which all outstanding billings will be charged. According to Pacific Bell, callers using that number can reach a person during business hours.

Pacific Bell also denies that its billing and collection services and combined bill is a cross-subsidy from regulated to unregulated operations. According to Pacific Bell, it provides these services to Pacific Bell Internet under the same

terms and conditions and at the same prices that it charges other parties who purchase these services pursuant to Tariff Schedule P.U.C. No. 175-T, Section B.

Further, Pacific Bell states that it will not disconnect a customer's basic service for failure to pay DSL service charges. Pacific Bell notes that pursuant to Decision (D.) 00-11-015, it may only disconnect telephone service for non-payment of the basic service portion of the telephone bill. Pacific Bell believes that this is clearly explained in the disconnection notice sent to customers who fail to pay their bill by the due date.

IV. Discussion

After this complaint was filed, Pacific Bell removed all charges for DSL Service from Complainant's account. At the evidentiary hearing held in this matter Pacific Bell provided two accounting witnesses to explain how these charges were removed and payments credited to Complainant's basic service account. Complainant now agrees that there is no accounting dispute remaining.

We recognize Complainant's frustration at not being able to stop Pacific Bell from making incorrect deductions from his checking account through APS. According to Pacific Bell, the disconnection notice and the improper APS deductions from Complainant's account should not have happened. While not excusable, this is an example of what could happen with computerized billing when there is human error. On the other hand, many customers value the convenience of APS. On balance, we see no need to discourage customers from using APS.

The remaining issue raised by Complainant is the alleged use by Pacific Bell of its disconnection notice to coerce customers to pay the non-basic services portion of their bill. Pacific Bell's September notice is set forth below:

PACIFIC BELL

HAVE YOU FORGOTTEN TO PAY YOUR TELEPHONE BILL?
IF SO,
YOUR TELEPHONE SERVICE MAY BE TEMPORARILY DISCONNECTED

If you have sent your payment, we apologize for sending you this notice.

As of 09/26/01 our records show that your account 650-851-3704 132 is due in the amount of \$60.73.

\$0.00 AMOUNT DUE FOR BASIC SERVICE PROVIDED BY PACIFIC BELL.

If this amount has not been received, or charges disputed, by 10/06/01, your service may be temporarily disconnected because your bill became delinquent prior to this date.

If your basic service is temporarily disconnected, you will be required to pay a security deposit of \$95.00 and all outstanding charges due for your basic service. You will be billed a restoral charge of \$19.00 for each of your telephone lines or applicable new service charges noted*. Your service will remain temporarily disconnected for only seven calendar days. Afterwards, your service will be permanently disconnected if you have not paid all delinquent charges due for your basic telephone service. Please note that the installation charges for new service are more than the restoral charge for temporarily disconnected service.

\$60.73 AMOUNT DUE FOR NON-BASIC SERVICE

Pacific Bell will not disconnect your basic telephone service solely for non-payment of 900, 976 or 700 Information Services, or other non-basic services such as voice mail, electronic mail, voice store and forward, fax store and forward, directory advertising and inside wire installation. In addition, your service will not be disconnected solely for non-payment of toll charges. However, if you do not pay your toll charges we will impose Toll Restriction on your account until your outstanding balance is paid in full. Pacific Bell reserves the right to remove or pursue other collection actions for any unpaid non-basic service. For further details, see the back of your bill.

\$60.73 TOTAL AMOUNT NOW DUE. PLEASE PAY THIS AMOUNT BY 10/06/01

The Commission did not approve the Pacific Bell notice sent to the Complainant. In informal communications with Telecommunications Division staff, Pacific Bell has indicated that this disconnection notice has been sent to customers starting in January 2001 in response to D.00-11-015. That decision prohibited Carrier of Last Resort, local exchange carriers from disconnecting residential and single-line business basic telephone service for non-payment of non-basic telephone services. Pacific Bell was required by D.00-11-015, dated November 2, 2000, Ordering Paragraph 1, to file revised tariff pages within 180 days of that decision. However, Pacific Bell failed to file a timely Advice Letter to revise its disconnection notice that has been in effect since April 6, 1998 (Cal. P.U.C. A2, 6th Revised Sheet 188.5). Pacific Bell's use of a non-authorized disconnection notice, is a violation of General Order 96-A procedures and D.00-11-015. The Public Advisor has not had the opportunity to review the disconnection notice and the Complainant, and potentially other customers have been needlessly confused by Pacific Bell's unapproved notice. Given the facts, the Commission will not penalize Pacific Bell for this violation. However, Pacific Bell is put on notice that when the utility knows that it has made a mistake, as in the case here with the company issuing a disconnection notice which was not filed or approved by the Commission, it should formally acknowledge the error in a letter to the Commission. When Pacific Bell files its Advice Letter, it should include such a letter.

Now we take up the issue of the contents of Pacific Bell's notice. The Complainant claimed that he received a notice threatening termination of his basic telephone service when the only amount unpaid was for DSL service. The Complainant argues that the disconnection notice is inappropriately combined with basic telephone service. While we agree that the notice in question is

confusing, we recognize that in general, a disconnection notice can appropriately refer to all, or a subset of services provided by the local exchange telephone company, as long as the notice accurately reflects the Commission's notice policies.

The notice received by the Complainant fails to fully inform customers of the basic service disconnection policy, and is incomplete in its description of non-basic services. First, the notice does not make clear that DSL is a "non-basic" service for which basic service will not be disconnected if the customer failed to remit payment for DSL service. This confusion exists because the notice states:

“Pacific Bell will not disconnect your basic telephone service solely for non-payment of 900, 976 or 700 Information Services, or other non-basic services such as voice mail, electronic mail, voice store and forward, fax store and forward, directory advertising and inside wire installation. In addition, your service will not be disconnected solely for non-payment of toll charges.”

Given this language, a customer can reason that basic service could be disconnected for failure to pay DSL service because it is not identified as a "non-basic" service. To clarify this matter, we direct Pacific Bell to include DSL in its list of services that do not result in disconnection of basic service for a customer's failure to pay outstanding charges for DSL service. Second, the basic service disconnect prohibition should be clearly identified on the notice. We direct Pacific Bell to conspicuously state near the top of the notice that basic service can only be disconnected for failure to pay for basic service, and surcharges and taxes related to basic service.

We direct Pacific Bell to meet with the Commission's Telecommunications Division staff and the Public Advisor to discuss modifications to the disconnection notice within 15 days from the effective date of this decision. This

will ensure a complete disclosure of the basic service disconnection policy by Pacific Bell prior to filing its Advice Letter for approval by the Commission. Pacific Bell is directed to file within 20 days from the effective date of this decision an Advice Letter containing the revised residential and business disconnection notices for telephone service that appropriately informs customers of the disconnection policy in accordance with this decision.

O R D E R

IT IS ORDERED that:

1. The relief requested by Complainant, to the extent that it is not rendered moot by corrections already made to Complainant's account, is denied.
2. Pacific Bell Telephone Company (Pacific Bell) is directed to meet with the Telecommunications Division staff and the Public Advisor within 15 days from the effective date of this decision to review and modify Pacific Bell's disconnection notice for failure to pay basic telephone charges when due.
3. Pacific Bell shall file within 20 days from the effective date of this decision an Advice Letter with revised residential and business disconnection notices that include DSL service in its list of non-basic services that do not result in disconnection of residential (1FR, 1MR) and single-line business (1MB) basic service for non-payment of non-basic services, and to conspicuously state near the top of the notice that basic service (1FR, 1MR, 1MB) can only be disconnected for failure to pay basic service charges, and surcharges and taxes related to basic service.

4. A copy of this order shall be provided to the Director of the Telecommunications Division and the Public Advisor for their attention.

5. This case is closed.

This order is effective today.

Dated _____, at San Francisco, California.